

UNITED STATES OF AMERICA
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	CR No.: 04-10098-WGY
)	
)	
)	
v.)	
)	
)	
CARMEN FIGUEROA,)	
Defendant)	

MOTION TO SUPPRESS CONTENTS OF PRISON TELEPHONE CALLS

NOW COME the Defendants in the above-captioned indictment and move, pursuant to Title 18 United States Code § 2510 et. seq. and the Fourth Amendment to the United States Constitution and moves to suppress the contents all telephone calls made by Manuel Mendes to Carmen Figueroa and other defendants and associates from the Plymouth County Correctional Facility.

Defendant further moves to suppress:

1. All interceptions made pursuant to the orders issued in MB 04-10035.
- 2 All items seized pursuant to search warrants where the probable cause for the issuance of the warrant was derived from the prison call interceptions or the Title III interceptions.
3. All items seized pursuant to warrantless searches (specifically and especially including the five hundred (500) grams of crack cocaine seized from a vehicle in New York) where such searches were

based upon probable cause derived from the interceptions.

4. All post arrest statements of defendants where probable cause for the arrest was based upon the interceptions.

In support of this motion, defendants submit that:

1. Warrantless interceptions of and recordings of the prison calls were unlawful because they were not conducted in accordance with the requirements of 18 United States Code § 2510 et. seq.;
2. The warrantless interceptions / recordings violate the Fourth Amendment to the United States Constitution; and
3. Warrantless access to the recordings by investigative law enforcement agents rather than prison officials acting in accordance with their mandate to ensure safety and security in the institution violated the defendants' right to be free from unreasonable searches and seizures under the Fourth Amendment and defendants' rights to due process under the Fifth Amendment to the United States Constitution.

This motion and the accompanying Memorandum and Exhibits are being submitted on behalf of all defendants.

Respectfully submitted,
CARMEN FIGUEROA
By her Attorney;

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CERTIFICATE OF SERVICE

I, John H. LaChance, Esq., do hereby certify that I have served a copy of the foregoing upon the government by delivering a copy of the same, to Assistant United States Attorney Susan Postwistillo, at the Office of the United States Attorney, United States District Court House, One Court House Way, Suite 9200, Boston, MA 02210 and to all other counsel of record by mail.

John H. LaChance